

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JOHN DAVID KENNEMER,

Plaintiff,

v.

UTMB MEDICAL, et al.,

Defendants.

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Case No. 6:21-cv-266-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff John David Kennemer filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 while he was a prisoner of the Texas Department of Criminal Justice. The case was referred to United States Magistrate K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.


On March 28, 2022, Judge Mitchell issued a Report recommending that Plaintiff's civil rights lawsuit be dismissed for failure to prosecute because Plaintiff had failed to prosecute his case and to keep the Court informed of his current address. Docket No. 37. A copy of this Report was mailed to Plaintiff's last known address, but he did not file written objections to the Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.>").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 7) as the findings of this Court. It is therefore **ORDERED** that Defendants' motion to dismiss (Docket No. 32) is **GRANTED**, and this case is **DISMISSED** without prejudice for failure to prosecute. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **9th** day of **May, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE